

Serial No. 09/285,249
Page 8 of 14

REMARKS

This response is intended as a full and complete response to the final Office Action mailed January 11, 2006. In the Office Action, the Examiner notes that claims 1-20 and 23-25 are pending and rejected. By this response, claims 1, 9, 10, 17, 20 and 25 have been amended.

In view of the above amendments and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response including amendments.

Amendments to the Claims

By this response, claims 1, 9, 10, 17, 20 and 25 have been amended. The amendments are fully supported by the Application as originally filed.

Furthermore, the amendments are cosmetic in nature (e.g., the amendments to claim 1, including "~~capable of receiving to receive~~ said first authorization code and ~~sending send~~ a second authorization code") and include subject matter already considered by the Examiner (e.g., the amendments to claim 1, including "~~capable of receiving to receive~~ said first authorization code and ~~sending send~~ a second authorization code" was already considered as part of claims 20 and 25; and the addition of "wherein said requested program is stored in the file server" to claim 1 was already considered as part of claim 6).

Thus, no new matter has been added and the Examiner is respectfully requested to enter the amendments. Moreover, since the amendments include subject matter already considered by the Examiner, the amendments will not require further consideration and search, and should thus be entered in response to the Final Office Action.

444425_1.DOC

Serial No. 09/285,249
Page 9 of 14

Rejection under 35 U.S.C. §103 of Claims 1-16 and 25

The Examiner has rejected claims 1-16 and 25 as being unpatentable over U.S. Patent No. 5,631,693 to Wunderlich et al. (hereinafter "Wunderlich") in view of U.S. Patent No. 5,818,511 to Farry et al. (hereinafter "Farry") and further in view of U.S. Patent No. 5,357,276 to Banker (hereinafter "Banker"). Applicants respectfully traverse the rejection.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. The Wunderlich, Farry and Banker references fail to teach or suggest all of the limitations recited in claim 1, and thus fail to teach or suggest Applicants' invention as a whole.

Specifically, the Wunderlich, Farry and Banker references, alone or in combination, fail to teach or suggest at least the following emphasized portions of claim 1:

"An apparatus for video on demand programs comprising:
a receiver to receive requests for video on demand programs;
a network manager, connected to said receiver, to process said program requests;
an authorization component, connected to said network manager, to transmit a first authorization code, in response to a request for a video on demand program, to authorize a set top terminal to tune to a specific preview channel and to enable delivery of a requested program, wherein the specific preview channel does not provide the full video on demand program; and
a file server, coupled to said network manager, to receive said first authorization code and send a second authorization code, wherein when the requested program is scrambled, the second authorization code enables descrambling said scrambled requested program, wherein said requested program is stored in the file server."

Wunderlich discloses a "system [which] comprises a headend coupled to a distribution network having a multiplicity of subscribers," the system having an "on demand services feature for the provision of video, audio, and data services" (abstract). However, as the Examiner acknowledges:

"Although Wunderlich discloses authorizing a subscriber to view the requested program (col. 9, lines 15-20 and 23-26), he fails to specifically disclose an authorization component to transmit a first authorization code to enable set top terminals to receive a requested program, use of a preview channel, and a second authorization code to descramble a

444425_1.DOC

Serial No. 09/285,249
Page 10 of 14

scrambled program as recited in the claims.” (pages 4-5 of the 1/11/2006 Office Action)

The Applicants respectfully agree that the Wunderlich reference fails to teach or suggest the authorization component to transmit a first authorization code to authorize a set-top terminal to tune to a specific preview channel and enable delivery of a requested program, and a file server to receive the first authorization code.

The Farry reference fails to bridge the substantial gap between the Wunderlich reference and the Applicants' invention as recited in claim 1. The Farry reference discloses a digital switching network which accommodates video on demand.

Concerning the Farry reference, the Examiner alleges (emphasis added below):

“Farry discloses an apparatus (figure 16) for video on demand programs comprising an authorization component (1670 and/or 501) that transmits a notification signal (e.g. an authorization code or identification) to a level 1 gateway server (1640) for the advantage of authorizing service to a subscriber. See column 11, lines 1-35.” (page 5 of the 1/11/2006 Office Action)

Thus, the Examiner alleges that the Farry reference discloses an authorization component that transmits a notification signal to a level 1 gateway server. However, the Applicants respectfully note that the level 1 gateway disclosed in the Farry reference is not a file server. The Applicants claim language recites “a file server, coupled to said network manager, to receive said first authorization code.” The Farry reference discloses (emphasis added below):

“A gateway, called a level 1 gateway, connects to a signalling network, such as an X.25 network, capable of transmitting signalling to the distribution component (as well as to a PVC controller) and to and from the subscribers. The level 1 gateway manages the establishment of connections between subscribers and the information sources. It provides necessary menus to guide the selection of the information desired by the subscriber.” (column 2, lines 58-65)

Thus, the Farry reference discloses that, generally speaking, the level 1 gateway manages the establishment of connections between subscribers and information sources. Therefore, the level 1 gateway is not a file server in the sense that the term is used in the present Application. For example, the file server of the present Application stores and serves the requested program. To clarify this aspect of the invention, claim

444425_1.DOC

Serial No. 09/285,249
Page 11 of 14

1 has been amended to include the relevant portion of previously presented dependent claim 6, "wherein said requested program is stored in the file server." The level 1 gateway of the Farry reference does not store requested programs. Instead, it is the information server of the Farry reference that performs this function.

Furthermore, the Farry reference does not disclose a fileserver which receives the first authorization code to tune to a specific preview channel and enable delivery of the requested program. Instead, the Farry reference discloses:

"If the service requested is a premium service, such as video-on-demand, the level 1 gateway initiates a connection via the X.25 network to the an information server 501 or to the ISP. It notifies the IS of a billing number associated with the subscriber. The server then notifies the level 1 gateway over the reverse path whether or not service is authorized to the subscriber. If service is not authorized, the level 1 gateway will provide a message to the DET and, depending on circumstances, may provide the DET user with an opportunity to subscribe to the service." (column 11, lines 25 -35)

Thus, the Farry reference discloses that the information server notifies the gateway whether or not service is authorized. Thus, it is the gateway, not the information server, which receives the notification. Therefore, the Farry reference does not teach or suggest a file server that receives the first authorization.

The Banker reference fails to bridge the substantial gap between the Wunderlich and Farry references and the Applicants' invention as claimed. The Banker reference discloses a "subscriber terminal [which] stores global transactions concerning NVO events" (abstract). However, the Banker reference also fails to teach or suggest the authorization component to transmit a first authorization code to authorize a set-top terminal to tune to a specific preview channel and enable delivery of a requested program, and a file server to receive the first authorization code.

Therefore, the Wunderlich, Farry, and Banker references fail to teach or suggest Applicants' invention as a whole.

As such, Applicants submit that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, independent claims 9, 10 and 25 contain substantially similar relevant limitations as those discussed above in regards to claim 1. As such, Applicants submit that independent claims 9, 10 and 25 are not obvious and fully satisfy the requirements of

444425_1.DOC

Serial No. 09/285,249
Page 12 of 14

35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 2-8 and 11-16 depend, either directly or indirectly, from independent claims 1, 9, 10 and 25 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the rejection be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 17-20 and 23-24

The Examiner has rejected claims 17-20 and 23-24 under 35 U.S.C. §103(a) as being unpatentable over Wunderlich in view of Farry and further in view of Banker and U.S. Patent 5,245,420 to Harney (hereinafter "Harney")

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. The Wunderlich, Farry, Banker and Harney references fail to teach or suggest all of the limitations recited in claim 17, and thus fail to teach or suggest Applicants' invention as a whole.

Specifically, the Wunderlich, Farry, Banker and Harney references, alone or in combination, fail to teach or suggest at least the following emphasized portions of claim 17:

"An apparatus for delivering video on demand programs to set top terminals comprising:
an authorization component to receive requests for video on demand programs from the set top terminals;
an interface connected to said authorization component;
a network manager, connected to said interface, comprising:
a timer, wherein the network manager monitors program requests for a same program within a time period extending from an initial request for a video on demand program; and
a processor to process said program requests, wherein said processor includes an instruction memory, and said processor comprises control software to compile, group or count said program requests; and
a file server, connected to said authorization component, to (i) receive a first authorization code to enable delivery of a requested program to all the set top terminals requesting the same requested program within the time period, and (ii) send a second authorization code to all the set top terminals requesting the same requested program within the time period, wherein when the requested program is scrambled, the second authorization code enables descrambling said scrambled requested program, wherein said requested program is stored in the file

Serial No. 09/285,249
Page 13 of 14

server.”

As substantially similarly discussed above in regards to the 35 U.S.C. §103 rejection of claim 1, the Wunderlich, Farry at Banker references fail to teach or suggest at least the “file server, connected to said authorization component, to (i) receive a first authorization code to enable delivery of a requested program.”

The Harney reference fails to bridge the substantial gap between the Wunderlich, Farry and Banker references and the Applicants' invention as recited in claim 17. Harney discloses an “off premises CATV system” (abstract). However, the Harney reference also fails to teach or suggest at least the “file server, connected to said authorization component, to (i) receive a first authorization code to enable delivery of a requested program.”

Therefore, the Wunderlich, Farry, Banker and Harney references fail to teach or suggest Applicants' invention as a whole.

As such, Applicants submit that independent claim 17 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Moreover, independent claim 20 contains substantially similar relevant limitations as those discussed above in regards to claim 17. As such, Applicants submit that independent claim 20 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 18-19 and 23-24 depend, either directly or indirectly, from independent claims 17 and 20 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the rejection of such claims under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION


Thus, Applicants submit that none of the claims presently in the application, are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

Serial No. 09/285,249
Page 14 of 14

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Stephen Guzzi, at (732) 383-1405, or Eamon J. Wall, Esq., at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 3/10/06



Eamon J. Wall
Registration No. 39,414
Attorney for Applicant

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808